

CLOSE CUSTODY REGULATIONS

TEXT OF PROPOSED REGULATIONS.

In the following text, deleting is indicated by ~~striketrough~~ and adding is indicated by single underline.

Division 3 of Title 15, California Code of Regulations is amended as follows:

3000. Definitions.

Section 3000 is amended to alphabetically merge the definitions below with those that already exist in the regulations.

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Attempted Escape means an unsuccessful effort to breach a secured perimeter or the use of force against a person to attempt access into an unauthorized area. Some progress toward implementing an escape must be made to implement a plan. This includes, but is not limited to the following overt acts: acquiring unauthorized clothing or identification, preparing a hiding place in an unauthorized area, lying in wait for a potential hostage, attempting access to a perimeter that was unsupervised, unlawfully obtaining tools to aid in an escape, manufacturing a likeness of a person in order to substitute for the inmate's presence, or receiving assistance from other conspirators who acted upon an escape plan, e.g. a plan to escape uncovered from verbal, telephone or mail communication.

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Designated Level II Housing means a housing facility encompassed by a facility security perimeter and constructed to provide celled housing for inmates with Level II classification scores.

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Direct and Constant Supervision means that an inmate shall be monitored and observed by CDC staff, either custody staff or work supervisor as indicated in these regulations, sufficiently to account for the specific whereabouts of the inmate at all times.

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Drugs means substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease, and as defined in Health and Safety Code section 11014. It may also include drug paraphernalia, as defined in Health and Safety Code section 11014.5.

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Escape History refers to any reliable information or inmate self-admission in the central file to an escape, attempted escape, walkaway, or plan to escape. The available information describing the circumstances of the escape or attempted escape shall be evaluated in determining the level of risk to correctional safety and security posed by the inmate.

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Execution Type Murder is a crime wherein the victim is shot in the head after being bound or cuffed and made to kneel, lie down or face a wall. This term describes the circumstances and manner of the shooting rather than any conspiracy or underlying intent.

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Facility Security Perimeter is any combination of living unit, work area and recreation area perimeters that is set aside to routinely restrict inmate movement based on custody level. This perimeter will contract and expand depending upon the weather, lighting conditions and hours of operation.

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Force, as applied to escape or Attempted Escape, refers to physical contact or threat of physical harm against a person to enable or attempt the escape.

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Frequent and Direct Supervision means that staff supervision of an inmate shall be sufficient to ensure that the inmate is present within the area permitted.

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High Notoriety describes an inmate who must be treated as a significant escape risk due to the unusual level of public panic that his or her escape would likely cause. The risk of panic is based upon the nature of the inmate's crime or the public's perception that the inmate has political or social influence or access to significant amounts of money or drugs. The inmate's

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crime must have received at least statewide media coverage; local coverage although extensive does not qualify.

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Management Concern means a behavior observed or documented in the inmate's criminal history that demonstrates to a classification committee that the inmate has a propensity towards violence against self or others; has a history of inciting or pressuring others toward criminal behavior; preys on more vulnerable members of society; or portrays a level of criminal sophistication and/or access to large amounts of drugs, money, or power. This may include disruptive groups and prison gang members or affiliates.

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Multiple Murders means the inmate killed or was involved in killing more than one victim during the commission of the crime for which the inmate is currently serving a Life term. This does not necessarily include an inmate who has killed more than one person during his or her criminal career.

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Public Interest Case is a broad term designating an inmate whose commitment offense, circumstances of the offense, criminal history, or subsequent conduct results in unusual public concern as evidenced by extensive media coverage beyond the local community. Bases for the designation include High Notoriety, Execution Type Murder, convictions for multiple Murders, mutilation of victims, an original sentence of Death, and a sentence of Life Without the Possibility of Parole.

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Secure Perimeter means the largest Security Perimeter that physically retains inmates in custody on facility property.

Security Perimeter means any unbroken physical barrier or combination of physical barriers that restricts inmate movement to a contained area without being processed through a door, gate, or sallyport.

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Unusual Violence describes the circumstances of an offense wherein the inmate acted to torture the victim over a period of time or intentionally made the victim endure great pain and suffering. A single act of stabbing, shooting, or beating of a victim does not necessarily qualify.

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Work Change Area means a portal controlled by staff and/or locking gates that is used to control access and includes the area where staff search inmates prior to permitting inmates in or out of adjacent areas such as Prison Industry Authority yards.

NOTE: Authority cited: Sections 2717.3 and 5058, Penal Code; Section 10115.3(b), Public Contract Code; and Section 4526, Government Code. Reference: Sections 186.22, 243, 530, 532, 646.9, 653m, 832.5, 1389, 2080, 2081.5, 2600, 2601, 2700, 2717.1, 2717.6, 2932.5, 4570, 5009, 5068, 5054, and 7000 et seq., Penal Code; Sections 1132.4 and 1132.8, Labor Code; Sections 10106, 10108, 10108.5, 10115, 10115.1 and 10127, Public Contract Code; and Section 999, Military and Veterans Code; Section 391, Code of Civil Procedure; *In re Bittaker*, 55 Ca.App. 4th 1004, 64 Cal.Rptr. 2d 679; and Section 11007, Health and Safety Code.

Section 3377.1, Division 3, of Title 15, California Code of Regulations, is amended to read:

3377.1. Inmate Custody Designations.

(a) Designation of a degree of an inmate's custody shall be reasonably related to legitimate penological interests. The CDC department uses the following ~~nine~~ inmate custody designations ~~to alert staff as to~~ establish where an inmate shall ~~may~~ be housed and assigned, and the level of staff supervision required ~~of the inmate~~ to ensure institutional security and public safety:

Maximum Custody

Close A Custody

Close B Custody

Medium A Custody

Medium B Custody

Minimum A Custody

Minimum B Custody

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(1) Maximum ~~A~~-Custody.

(A) Housing shall be in single cells ~~(when possible) in security housing or in an approved specialized segregated program housing unit as described in CCR section 3335 and CCR subsections 3341.5(b) and 3341.5(c).~~

(B) Assignments and activities shall be within the confines of ~~their~~ the approved segregated program housing unit.

(C) ~~Supervision shall be direct and constant.~~ An inmate designated as Maximum Custody shall be under the direct supervision and control of custody staff.

~~(2) Maximum B~~

~~(A) Housing shall be in single cells (when possible) in security housing or in approved specialized housing units.~~

~~(B) Assignment and activities shall be within the confines of their housing unit except for movement to and from external activities authorized for inmates of the unit.~~

~~(C) Supervision shall be direct and constant.~~

~~(3) An inmate confined in a security housing unit (SHU) or approved specialized housing unit shall be assigned maximum A or B custody. Inmates not confined in security or approved specialized housing units shall not be classified as maximum A or B custody.~~

~~(4)~~(2) Close A Custody Male Inmates.

(A) Housing shall be in cells within Level III and Level IV facilities in housing units located within an established facility security perimeter. ~~in areas designated and maintained for higher security needs within general population at facilities with a secure perimeter.~~

(B) Close A Custody inmates shall be permitted to participate in program Assignments and activities shall be permitted during daylight hours only, scheduled within the hours of 0600 hours to 1800 hours in areas located within the facility security perimeter. Close A Custody inmates are not permitted beyond the work change area. ~~limited to designated close security areas at nonwalled facilities and to the main security areas in walled facilities.~~

(C) Custody staff S~~s~~upervision shall be direct and constant. In addition to regular institutional counts, Close A Custody male inmates shall be counted at noon each day.

(3) Close A Custody Female Inmates.

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(A) Housing shall be in cells or in a designated Close Custody dormitory.

(B) Close A Custody female inmates shall be permitted to participate in program assignments and activities scheduled within the hours of 0600 hours to 1800 hours in areas located within the facility security perimeter and the work change area.

(C) Custody staff supervision shall be direct and constant. In addition to regular institutional counts, Close A Custody female inmates shall be counted at noon each day.

~~(5)~~(4) Close B Custody Male Inmates.

(A) Housing shall be in cells in secure areas designated by the facility for Close B Custody. within designated institutions in housing units located within an established facility security perimeter.

(B) Close B Custody inmates shall be permitted to participate in program assignments and activities shall be within the facility security perimeter during daylight hours only, during the hours of 0600 hours to 2000 hours in areas located within the facility security perimeter including beyond the work change area in a designated Level II, Level III or Level IV institution. Close B Custody inmates may participate in designated work program assignments until 2200 hours when the work program is in an assigned housing unit located within the facility security perimeter. Close B Custody inmates may participate in limited evening activities after 2000 hours until the general evening lockup and count when the limited activity is in a designated housing unit located within the facility security perimeter except for limited evening activities such as bathing and haircuts within the housing unit.

(C) The work supervisor shall provide supervision shall be direct and constant supervision of Close B Custody inmates during the inmates' assigned work hours.

(D) Custody staff shall provide direct and constant supervision of Close B Custody inmates at all times.

(5) Close B Custody Female Inmates.

(A) Housing shall be in cells or in a designated Close Custody dormitory located within an established facility security perimeter.

(B) Close B Custody female inmates shall be permitted to participate in program assignments and activities during the hours of 0600 hours to 2000 hours in areas located within

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the facility security perimeter, including beyond the work change area, in designated Level II, Level III and Level IV institutions.

Close B Custody female inmates may participate in work program assignments until 2200 hours when the work program is in an assigned housing unit located within the facility security perimeter. Close B Custody female inmates may participate in limited evening activities after 2000 hours until the general evening lockup and count when the limited activity is in an assigned housing unit located within the facility security perimeter.

(C) The work supervisor shall provide direct and constant supervision of Close B Custody inmates during the inmates' assigned work hours.

(D) Custody staff shall provide direct and constant supervision of Close B Custody inmates at all times.

(6) Medium A Custody.

(A) Housing shall be in cells or dormitories within the facility security perimeter.

(B) Assignment and activities shall be within the facility security perimeter.

(C) Custody staff shall provide frequent and direct supervision.

(7) Medium B Custody.

(A) Housing shall be in cells or dormitories within the facility security perimeter.

(B) Assignment and activities shall be within the facility security perimeter. Inmates may be given daytime assignments outside the facility security perimeter but must remain on facility grounds.

(C) Custody staff shall provide frequent and direct supervision inside the facility security perimeter ~~shall be frequent and direct.~~ ; Custody staff shall provide direct and constant supervision outside the facility security perimeter ~~shall be direct and constant.~~

(8) Minimum A Custody.

(A) Housing shall be in cells or dormitories within the facility security perimeter.

(B) Assignment and activities may be inside or outside the facility security perimeter.

(C) Staff supervision shall consist of at least hourly observation if assigned outside the facility security perimeter. Sufficient staff supervision of the inmate shall be provided to ensure the inmate is present if assigned inside the facility security perimeter.

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~~(D) Required for unescorted Temporary Community Release.~~

(9) Minimum B Custody.

(A) Housing may be in cells or dormitories on facility grounds, ~~or in a camp,~~ in a Minimum Support Facility (MSF) or in a community based facility such as a Community Correctional Facility.

(B) Assignments and activities include eligibility for ~~emergency firefighting, off reservation work detail/community betterment and camp~~ work or program assignments located either on or off institutional grounds.

(C) Sufficient staff supervision shall be provided to ensure the inmate is present. ~~Inmates shall be counted at least four times each 24 hours.~~

(b) An "R" suffix shall be affixed by a classification committee to the inmate's custody designation to alert staff of inmates who have a history of specific sex offenses.

(1) The "R" suffix shall be designated for any inmate who was convicted of, or whose commitment offense includes an act equivalent to any of the following offenses:

(A) Assault with intent to commit rape, sodomy, oral copulation, rape in concert with another, lascivious acts upon a child, or penetration of genitals or anus with a foreign object.
[Penal Code section 220]

(B) Rape.

(C) Rape of spouse.

(D) Rape or penetration of genitals or anal openings by foreign object; acting in concert by force or violence.

(E) Abduction to live in an illicit relationship.

(F) Incest.

(G) Sodomy.

(H) Sexually assaulting an animal.

(I) Lewd or lascivious acts with a child under 14.

(J) Oral copulation.

(K) Penetration of genital or anal openings by foreign object.

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(2) Within six months upon reception of an inmate with a record of arrest or detention for any offenses listed in section 3377.1(b)(1), a classification committee shall determine the need for an “R” suffix to the inmate’s custody designation. The committee shall consider the arrest reports and district attorney’s comments related to each arrest.

(3) If a unit classification committee (UCC) finds that an inmate may no longer require an “R” suffix, the committee shall refer the matter to the Institution Classification Committee (ICC) for action.

(4) An inmate whose “R” suffix has been removed shall be eligible for any housing or assignment for which they otherwise would qualify had the “R” suffix never been designated.

(5) When an “R” suffix has been considered and not applied, or has been removed at one facility, another facility shall not affix an “R” suffix. If the facility disagrees with the “R” removal or decision against “R” designation, it shall submit the case for a Departmental Review Board decision.

(c) An “S” suffix may be affixed by a classification committee to the inmate’s custody designation to alert staff of an inmate’s need for single cell housing. The classification committee’s decision to affix the “S” suffix shall be based on documented evidence that the inmate may not be safely housed in a double cell or dormitory situation based on a recommendation by custody staff or a health care clinician.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code.

Section 3377.2, Division 3, of Title 15, California Code of Regulations, is adopted to read:

3377.2 Criteria for Assignment of Close Custody.

(a) Close Custody: Upon review of an inmate’s case factors and need for supervision, the classification committee shall establish a Close Custody designation in accordance with the following case considerations when it determines that the inmate meets case factor criteria for either Close A Custody as listed in section 3377.2(b) or for Close B Custody as listed in section 3377.2(c).

(1) The case factors to be considered in assigning Close Custody include, but are not limited to, the following:

(A) the inmate’s total term, sentence, or remaining time-to-serve;

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- (B) the inmate's escape history;
- (C) identification of a management concern;
- (D) receipt of an active law enforcement felony hold;
- (E) a finding of guilt for a serious Rules Violation Report (RVR) (see Section 3315);
- (F) an inmate who is considered to be High Notoriety or is designated as a Public

Interest Case.

(2) Departmental Review Board (DRB) approval is required to assign a Close Custody designation to an inmate who does not meet the case factor criteria established in this section. Authorization from the DRB shall be required before extending a Close Custody designation beyond the time constraints established for the most similar group of sentences.

(3) Custody determination shall be based on information available at the time of review. An ICC may temporarily assign a Close Custody designation to an inmate, for a maximum of ninety (90) days, pending receipt of documents or verification of information needed to make a final determination.

(4) Any inmate being evaluated for reduction of Close Custody shall demonstrate a record of disciplinary-free behavior and compliance with behavioral expectations, such as positive programming and participation for the last 12 months prior to the review.

(5) The Annual Classification Committee review shall include consideration of custody reduction.

(6) When calculating the time to be served in Close Custody in accordance with the case factor criteria, a classification committee shall count an inmate's behavior conforming to minimum expectations in the California Youth Authority (CYA) prior to the inmate's placement in CDC during the inmate's current term.

(7) When calculating the time served in Close Custody in accordance with case factor criteria, a classification committee shall not include periods of time that an inmate was serving a determinate or indeterminate term in Security Housing Unit (SHU) or in Administrative Segregation Unit (ASU) or any segregated program housing unit.

(8) In cases involving an escape, the date of the escapee's return to CDC custody shall be the starting date to be used in calculating the start of the Close Custody time frame.

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(9) An inmate who meets the Close Custody case factor criteria and who also has a documented health care or disability special housing need which cannot be reasonably accommodated in the existing facility shall be referred by classification committee to the Classification Staff Representative (CSR) for transfer consideration.

(10) An inmate who is identified to be a management concern shall be ineligible for custody reduction consideration below Close B Custody.

(11) The classification committee is to consider the inmate's length of term or remaining time to serve in light of the inmate's escape history. An inmate with an escape history shall serve the longest required amount of time before becoming eligible for custody reduction below Close A Custody and shall also serve the longest required amount of time before being eligible for custody reduction below Close B Custody.

(12) An inmate who meets more than one Close A Custody case factor shall be designated Close A Custody for the longest required amount of time before becoming eligible for Close B Custody consideration.

(13) An inmate who meets more than one case factor for Close B Custody shall serve the longest required amount of time before he or she is to be eligible for consideration of further custody reduction.

(14) An inmate who is ineligible for further custody reduction based on any exclusionary case factor shall be precluded from further custody reduction.

(b) Close A Custody Case Factor Criteria: An inmate who meets any of the Close A Custody case factor criteria described in this subsection shall be assigned to Close A Custody.

(1) Sentence/Time-to-Serve. An inmate serving a sentence of Life Without the Possibility of Parole (LWOP) shall serve his or her first five (5) years of incarceration in CDC at Close A Custody before he or she shall be eligible for custody reduction consideration.

(2) Sentence/Time-to-Serve plus Management Concern and/or Escape History. An inmate who demonstrates a management concern and/or an escape history in addition to serving a lengthy sentence or Total Term as defined below shall require Close A Custody:

(A) An inmate with a management concern and/or an escape history whose remaining time to serve is a determinate sentence or a Total Term of 50 years or more shall serve at least his

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or her first five (5) years of incarceration in CDC at Close A Custody before he or she shall be eligible for consideration of custody reduction.

(B) An inmate with a management concern and/or an escape history who is serving more than one Life sentence shall serve his or her first five (5) years of incarceration in CDC at Close A Custody before he or she shall be eligible for consideration of custody reduction.

(C) An inmate with a management concern and/or an escape history who is serving a Life sentence shall serve at least his or her first year of incarceration in CDC at Close A Custody before he or she shall be eligible for consideration of custody reduction.

(D) An inmate with a management concern and/or an escape history whose remaining time-to-serve is 15 years or more but less than 50 years time-to-serve shall serve at least his or her first year of incarceration in CDC at Close A Custody before he or she shall be eligible for consideration of custody reduction.

(3) An inmate whose precommitment and prior in-custody behavior demonstrates no management concern and reflects no escape history, but whose term of incarceration meets any of the following criteria shall require Close A Custody:

(A) An inmate whose remaining time-to-serve is a determinate sentence or a Total Term of 50 years or more shall serve at least his or her first five (5) years of incarceration in CDC at Close A Custody before he or she shall be eligible for consideration of custody reduction.

(B) An inmate serving more than one Life sentence shall serve at least his or her first five (5) years of incarceration in CDC at Close A Custody before he or she shall be eligible for consideration of custody reduction.

(C) An inmate serving a Life sentence shall serve his or her first year of incarceration in CDC at Close A Custody before he or she shall be eligible for consideration of custody reduction.

(D) An inmate whose remaining time-to-serve is 15 years or more, but less than 50 years, shall serve his or her first year of incarceration in CDC at Close A Custody before he or she shall be eligible for consideration of custody reduction.

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(4) Escape History. An inmate with a documented escape history (as reflected in State, Federal, local or juvenile criminal history) as described in this section shall be assigned to Close A Custody:

(A) An inmate convicted of or whose commitment offense includes Escape With Force or Attempted Escape With Force from any correctional setting or armed escort occurring within the last five (5) years of return to CDC custody shall serve his or her first eight (8) years upon receipt in CDC at Close A Custody before he or she shall be eligible for consideration of custody reduction.

(B) An inmate convicted of or whose commitment offense includes Escape Without Force or Attempted Escape Without Force From Secure Perimeter or Armed Escort within the last five (5) years of return to CDC custody shall serve his or her first five (5) years of incarceration upon receipt in CDC at Close A Custody before he or she shall be eligible for consideration of custody reduction.

(C) An inmate convicted, or found guilty of any serious RVR for plotting or planning to escape from a secure perimeter shall require Close A Custody for two (2) years from the date of the conviction or from the date charges were adjudicated, whichever is later, before he or she shall be eligible for consideration of custody reduction.

(5) Holds. An inmate who is subject to an active law enforcement hold as described below shall require Close A Custody as follows:

(A) An inmate verified to be subject to an active law enforcement hold for an offense that could result in sentencing as an LWOP, to serve Multiple Life Terms, or to serve a Determinate Sentence or Total Term of 50 years or more shall require Close A Custody for at least five (5) years from the date of receipt of the hold unless the hold is removed. After initial five years at Close A Custody, the inmate shall be eligible to be considered for custody reduction to Close B Custody.

(B) An inmate verified to be subject to an active law enforcement hold for an offense that could result in sentencing to a Total Term of Life or a determinate term or Total Term of 15 years or more shall require Close A Custody for at least one (1) year from the date of receipt of the

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hold unless the hold is removed. After at least one (1) year at Close A Custody, the inmate shall be eligible for consideration for custody reduction to Close B Custody.

(6) Disciplinary History. An inmate who was found guilty of a serious RVR or convicted of an offense in custody as described in this subsection shall require Close A Custody as follows:

(A) An inmate found guilty of an in-custody Murder of A Non-Inmate or convicted of an in-custody Murder of A Non-Inmate shall be designated Close A Custody following his or her release from SHU. Close A Custody is required during the inmate's remaining Total Term after release from SHU. Custody shall not be reduced from Close A Custody.

(B) An inmate found guilty of an in-custody Murder of an Inmate or convicted of an in-custody Murder of an Inmate within the last six (6) years shall serve at least the subsequent six (6) years at Close A Custody following release from SHU before he or she shall be eligible for consideration of further custody reduction.

(7) Notoriety. An inmate designated as a Public Interest Case or who is considered to have High Notoriety shall serve at least his or her first five (5) years in Close A Custody before he or she shall be eligible for consideration of further custody reduction.

(c) Close B Custody Case Factor Criteria: An inmate who meets the Close B Custody case factor criteria described in this subsection shall be assigned to Close B Custody.

(1) Life Without Possibility of Parole. Upon completing five (5) years at Close A Custody, an inmate serving LWOP shall serve at least the subsequent ten (10) years at Close B Custody. An inmate who is designated as an LWOP shall be ineligible for further reduction of custody below Close B Custody until after at least a total of 15 years at Close Custody. Level IV housing is required for the inmate's Total Term unless the DRB authorized Level III housing as a result of a case-by-case review.

(2) Sentence/Time-to-Serve Plus Management Concern or Escape history. An inmate who demonstrates a management concern and/or an escape history in addition to a lengthy remaining Time-to-Serve or Total Term as defined below shall require Close B Custody:

(A) Upon completing at least five (5) years at Close A Custody, an inmate who demonstrates a management concern and/or an escape history and whose remaining Time-to-

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Serve is a determinate sentence or a Total Term of 50 years or more shall serve his or her remaining Time-to-Serve at Close B Custody. The inmate shall be ineligible for further reduction of custody.

(B) Upon completing at least five (5) years at Close A Custody, an inmate who demonstrates a management concern and/or an escape history and who is serving more than one Life sentence shall be assigned to Close B Custody. The inmate shall be ineligible for further reduction of custody.

(C) Upon completing at least one (1) year at Close A Custody, an inmate who demonstrates a management concern and/or an escape history and who is serving a Life sentence shall be assigned to Close B Custody. The inmate shall be ineligible for further reduction of custody.

(D) Upon completing at least one (1) year at Close A Custody, an inmate who demonstrates a management concern and/or an escape history and whose remaining Time-to-Serve is fifteen (15) years or more, but less than 50 years Time-to-Serve, shall serve his or her remaining years at Close B Custody. The inmate shall be ineligible for further reduction of custody.

(3) Sentence/Time-to-Serve. An inmate who demonstrates no management concerns and no escape history, but whose remaining lengthy sentence or Total Term as defined below shall require Close B Custody.

(A) Upon completing at least five (5) years at Close A Custody, an inmate who demonstrates no management concerns and no escape history, but whose remaining Time-to-Serve is a determinate sentence or a Total Term of 50 years or more shall serve the subsequent ten (10) years at Close B Custody. Placement shall be in a Level IV or Level III housing facility only.

(B) Upon completing at least five (5) years at Close A Custody, an inmate who demonstrates no management concerns and no escape history, but who is serving more than one Life sentence shall be assigned to Close B Custody. He or she must be within seven (7) years of his or her Minimum Eligible Parole Date (MEPD) before he or she is eligible for further reduction of custody. Placement shall be in a Level IV or Level III housing facility only.

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(C) Upon completing at least one (1) year at Close A Custody, an inmate who demonstrates no management concerns and no escape history, but who is serving a Life sentence shall be assigned to Close B Custody. He or she must be within seven (7) years of his or her MEPD before he or she is eligible for further reduction of custody. An inmate sentenced to Life may be considered for placement in a designated Level II facility when the inmate has a Level II Classification Score, is otherwise eligible for housing in a Designated Level II facility, and meets criteria per CCR Section 3375.2(a)(7). However, an inmate identified as a serial killer shall be excluded from Level I or Level II placement even if his or her convictions for murders are prosecuted separately.

(D) Upon completing at least one (1) year at Close A Custody, an inmate who demonstrates no management concerns and no escape history, whose remaining Time-to-Serve is a determinate sentence or a Total Term of fifteen (15) years or more, but not more than 50 years, shall serve the subsequent four (4) years at Close B Custody before he or she is eligible for further reduction of custody. Such an inmate may be considered for placement in a Designated Level II Facility when the inmate has a Level II Classification Score, is otherwise eligible for housing in a Designated Level II facility, and meets criteria per CCR Section 3375.2(a)(7).

(4) Escape History. An inmate with a documented escape history as described in this section shall be assigned to Close B Custody:

(A) Upon completing at least eight (8) years at Close A Custody, an inmate who is convicted of or found guilty of a serious RVR or whose commitment offense includes Escape With Force or Attempted Escape With Force from any correctional setting or armed escort shall serve the subsequent two (2) years at Close B Custody before he or she shall be eligible for further reduction of custody. Following completion of the required Close B Custody period, an inmate with an escape history shall be eligible for custody reduction to Medium A Custody, but shall be housed in no less than a Designated Level II facility for a minimum of three (3) years before he or she shall be eligible for less restrictive housing. The inmate shall be ineligible for Minimum Custody.

(B) Upon completing at least five (5) years at Close A Custody, an inmate convicted of or whose commitment offense includes Escape Without Force or Attempted Escape Without

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Force From Secure Perimeter Facility or Armed Escort shall serve the subsequent five (5) years at Close B Custody before he or she shall be eligible for further reduction of custody. Following completion of the required Close B Custody period, an inmate with an escape history shall be eligible for custody reduction to Medium A Custody, but shall be housed in no less than a Designated Level II facility for a minimum of three (3) years before he or she shall be eligible for less restrictive housing. The inmate shall be ineligible for Minimum Custody.

(C) Upon completing at least two (2) years at Close A Custody, an inmate involved in a documented plot to escape from a secure perimeter facility shall serve the subsequent two (2) years at Close B Custody before he or she shall be eligible for further reduction of custody. Following completion of the required Close B Custody period, an inmate with an escape history shall be eligible for custody reduction to Medium A Custody, but shall be housed in no less than a Designated Level II facility for a minimum of three (3) years before he or she shall be eligible for less restrictive housing. The inmate shall be ineligible for Minimum Custody. An inmate with a history of walkaways from nonsecure settings shall not be placed in minimum custody settings for at least ten (10) years following the latest walkaway.

(5) Holds. An inmate who is subject to an active law enforcement hold as described below shall require Close B Custody as follows:

(A) After at least five (5) years at Close A Custody, an inmate verified to be subject to an active law enforcement hold for an offense that could result in sentencing as an LWOP, to Multiple Life Terms, or to a Determinate Sentence or Total Term of 50 years or more shall be Close B Custody until the hold is removed.

(B) After at least one (1) year at Close A Custody, an inmate verified to be subject to an active law enforcement hold for an offense that could result in sentencing to a Total Term of Life or a determinate term or Total Term of 15 years or more shall be Close B Custody until the hold is removed.

(6) Disciplinary History. An inmate whose disciplinary history includes any of the criteria described in this subsection shall require Close B Custody:

(A) An inmate found guilty of an in custody a serious RVR for the Murder of a Non-Inmate or convicted of Murder of a Non-Inmate shall require Close A Custody during his or her

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remaining term after release from SHU. The inmate shall be ineligible for Close B Custody or any reduction of custody.

(B) Upon completing at least six years at Close A Custody, an inmate found guilty of an in custody a serious RVR for the Murder of an Inmate or convicted of Murder of an Inmate shall serve the subsequent four (4) years at Close B Custody before he or she shall be eligible for consideration of further reduction of custody.

(C) An inmate found guilty of a Division A-1 or Division A-2 serious, as set forth in Section 3323, or who is determined by a classification committee to demonstrate a pattern of, or a continuing propensity for, violence, escape or narcotic distribution, shall serve two (2) years at Close B Custody before he or she shall be eligible for consideration of further reduction of custody.

(D) An inmate designated as a former gang member ("dropout") shall be required to undergo a period of observation and be designated by classification committee action as a Close B Custody inmate for one (1) year before he or she shall be eligible for consideration of further reduction of custody.

(7) Notoriety. After at least five (5) years at Close A Custody, an inmate designated as a Public Interest Case or determined to have High Notoriety shall serve at least five (5) years in Close B Custody before consideration of further reduction of custody.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code.

End of Proposed Regulations